



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
JAMES R. SUTHERLIN, JR.)

Appearances:

For Appellant: Catherine Howard

For Respondent: Allen R. Wildermuth
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of James R. Sutherlin, Jr., against a proposed assessment of additional personal income tax in the amount of \$2,506.53 for the year 1978.

Appeal of James R. Sutherlin, Jr.

For 1978, appellant filed a California personal income tax return in which he reported no income and claimed a charitable contribution deduction of over \$89,000. His W-2 forms, which were attached to his return, showed income of \$28,507.59 and withholding of \$1,599.00, for which he claimed a refund. Respondent requested additional information regarding his income and deductions. When appellant did not respond, a proposed assessment was issued, based on appellant's W-2 forms, which included a penalty for failure to provide requested information. Respondent has agreed that appellant's tax liability will be reduced by the amount of withholding shown on the W-2 forms.

Appellant contends that his income was not taxable because he was under a religious vow of poverty. The facts in this appeal and the arguments appellant raises are essentially the same as those in his previous appeal to this board. (Appeal of James R. Sutherlin, Cal. St. Bd. of Equal., June 23, 1981.) That previous appeal was decided adversely to appellant, and we find no reason to decide the present appeal differently.

Respondent's action is sustained.

Appeal of James R. Sutherlin, Jr.

ORDER

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of James R. Sutherlin, Jr., against a proposed assessment of additional personal income tax in the amount of **\$2,506.53** for the year 1978, be modified to reflect appellant's withholding credits. In all other respects, the action of the Franchise Tax Board is sustained.

Done at Sacramento, California, this 29th day of June, 1982, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Dronenburg, and Mr. Nevins present.

William M. Bennett , Chairman

Ernest J. Dronenburg, Jr. , Member

Richard Nevins, Member

_____, Member

_____, Member